

REMARKS

Reconsideration and allowance are respectfully requested.

New claims 11-26 replace original claims 1-10. The new claims find support in the specification throughout, including the original claims.

The formality rejection of claim 6 is now moot.

The rejection of claims 1-2, 4 and 7-10 as obvious over JP S57-111822 and/or JPS55-134822 and/or JP S56-60730 in view of JP S61-108257; claims 1-5 and 7-8 as obvious over alleged admitted prior art Tomiuolo (USP 5,587,786); claim 6 over "the references as applied above in view of Official Notice"; and claims 9-10 as obvious over "the references applied above with respect to claim 1, further in view of S61-108257 are each traversed.

The present invention according to claim new claim 11, is directed to a roll type external patch (transdermal patch) in which a tape type patch having a tape type support, adhesive layer (with a medicine) laminated on all over one side of the tape type support is wound around a dispenser core with covers at both ends thereof. Further, in the roll type transdermal patch, a plurality of tear off cutting lines are provided in the tape type patch in a direction crossing a longitudinal direction thereof, and the tear off cutting lines are located in positions at which the adhesive layer exists in a direction perpendicular to a side surface of the tape type support.

The present invention according to the new claim 20 is directed to a roll type patch that may have three layers.

None of the references disclosed nor suggests that the tear off cutting lines are located positions which a adhesive layer exist in a direction perpendicular to one side surface of the tape type support as defined in the new independent claims 11 and 20. For instance, Tomaiuolo discloses the provision of a perforation line 15, but the perforation lines is provide at position where any absorbent pad does not exist (See Fig. 1). It would appear that none of the other references discloses nor suggests even perforation lines. Accordingly, the claimed inventions would not have been suggested by the cited documents, even if there were admissions, which there are not.


Appl. No. 10/049,162
Amdt. dated December 16, 2003
Reply to Office Action of September 16, 2003

Furthermore, it is respectfully requested that the Examiner reconsider and withdraw reliance on allegations of routine work, routine experiments, optimization and the like appear. rejections. Rote reliance on such alleged truisms does not comport with the statute or the record herein. Indeed, in the In re Antonie, 195 USPQ 6, 8 (CCPA 1977) decision the court said "The PTO and the minority appear to argue that it would always be *obvious* for one of ordinary skill in the art *to try* varying *every* parameter of a system in order to optimize the effectiveness of the system even if there is no evidence in the record that the prior art recognized that particular parameter affected the result. As we have said many times, *obvious to try* is not the standard of 35 USC 103. In *re Tomlinson*, 53 CCPA 1421, 363 F.2d 928, 150 USPQ 623 (1966). Disregard for the unobviousness of the results of "obvious to try" experiments disregards the "invention as a whole" concept of §103, In *re Dien*, 54 CCPA 1027, 371 F.2d 886, 152 USPQ 550 (1967) and In *re Wiggins*, 55 CCPA 1356, 397 F.2d 356, 158 USPQ 199 (1968), and overemphasis on the routine nature of the data gathering required to arrive at appellant's discovery, after its existence became expected, overlooks the last sentence of §103. In *re Saether*, 492 F.2d 849, 181 USPQ 36 (CCPA 1974)."

Having addressed all matters, a Notice of Allowance is respectfully solicited.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By: 
Kendrew H. Colton
Registration No. 30,368

FITCH, EVEN, TABIN & FLANNERY
1801 K Street, NW - Suite 401L
Washington, DC 20006-1201
Telephone: (202) 419-7000
Facsimile: (202) 419 -7007